

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

SYLVESTER JAMES MAHONE

Plaintiff,

V.

DOUG WADDINGTON, *et al.*,

Defendants.

Case No. C04-5463RJB

ORDER ON PENDING MOTIONS

This Civil Rights action has been referred to the undersigned Magistrate Judge pursuant to Title 28 U.S.C. § 636(b)(1)(B). Before the court is plaintiff's motion asking leave to file an overlength brief in opposition to defendants motion for summary judgment. (Dkt. # 63). Also before the court is plaintiff's motion for appointment of counsel, (Dkt. # 71), and defendant's motion to strike plaintiff's cross motion for summary judgment, (Dkt. # 73).

Defendant in this action filed a motion for summary judgment that complied with the court's length requirements. (Dkt. # 56). The motion is 24 pages long and it was filed one day before the dispositive motion cut off date of March 18th, 2005. Attached to the motion are 101 pages of exhibits. Plaintiff asked for and received an extension of time to respond. (Dkt. # 61).

On April 22nd, 2005, plaintiff filed a 48 page response and a 14 page cross motion. Attached to the response is 111 pages of exhibits and attached to the cross motion are another 72 pages of

1 exhibits.

2 The Federal Rules of Civil Procedure and Local Rules regarding length of briefs apply to all
3 parties before this court. Allowing a responsive pleading twice the length allowed under the local
4 rule is prejudicial to the party that has complied with the courts rules. Plaintiff's motion to file an
5 over length brief is **DENIED**.

6 Plaintiff will be given until **June 24th, 2005** to file a motion in opposition to defendant's
7 motion for summary judgment that complies with the Local Rules. To prevent prejudice to either
8 party this action is **STAYED** until June 24th, 2005.

9 Plaintiff's motion for appointment of counsel is 35 pages long. (Dkt. # 71). A motion noted
10 under Local Rule 7 (d)(3) shall not exceed 12 pages. See, Local Rule 7(e)(4). The court has
11 considered the motion on the merits and finds the motion to be premature. The motion is premised
12 on plaintiff prevailing at summary judgment. (Dkt. # 71). The motion is **DENIED**.

13 The final motion before the court is defendants motion to strike plaintiff's cross motion for
14 summary judgment. (Dkt. # 73). Defendants note that the dispositive motion cut off date in this
15 action was March 18th, 2005. Defendants filed a timely motion. Plaintiff sought an extension of time
16 to respond and did not mention or indicate an intention to file a cross motion. Further, the motion
17 was not received until April 22nd, 2005, over one month after the dispositive motion cut off date.
18 The motion will not be struck from the record but it will not be considered by the court.

19 The clerk is directed to send copies of this order to plaintiff and counsel for defendants and to
20 re-note docket number 56 for July 1st, 2005.

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22 DATED this 18th day of May, 2005.

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/S/ J. Kelley Arnold

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J. Kelley Arnold

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United States Magistrate Judge

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